

RESOLUTION NO.

Resolution of the Planning Commission of the City of San Jose making certain findings concerning significant effects, mitigation measures, and alternatives; and granting, subject to conditions, a Conditional Use Permit for the demolition of 507 and 511 Almaden Avenue and construction of a 20 space parking lot with associated landscaping and site improvements.

FILE NO. RCP 03-011

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SAN JOSE:

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San Jose Municipal Code, on April 22, 2003, an application (File No. RCP03-011) was filed for a Conditional Use Permit for the purpose of the demolition of the structures at 507 and 511 Almaden Avenue and construction of a 20 space parking lot with associated landscaping and site improvements, on that certain real property (hereinafter referred to as "subject property"), situated in the DC-NT1 Zoning District, located at **507-511 Almaden Street**, San Jose, CA and

WHEREAS, the subject property is all that real property described in Exhibit "A," which is attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, prior to the adoption of this Resolution, the Planning Commission of the City of San Jose has certified that the Focused Environmental Impact Report, for the project, entitled "Almaden Avenue Parking Lot and Landscape Buffer", was completed in accordance with the requirements of the California Environmental Quality Act ("CEQA") of 1970, as amended, and state and local guidelines; and

WHEREAS, pursuant to and in accordance with Chapter 20.44 of Title 20 of the San Jose Municipal Code, this Planning Commission conducted a hearing on said application, notice of which was duly given; and

WHEREAS, at said hearing, this Planning Commission gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing this Planning Commission received and considered the reports and recommendation of the Director of Planning, Building and Code Enforcement; and

WHEREAS, said hearing was conducted in all respects as required by the San Jose Municipal Code and the rules of this Planning Commission;

WHEREAS, CEQA requires that in connection with the approval of a project for which an Final SEIR has been prepared which identifies one or more significant environmental effects, the

decision-making body of a responsible agency must make certain findings regarding those significant effects on the environment identified in the Final SEIR; and

NOW THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SAN JOSE;

THAT THE PLANNING COMMISSION does hereby certify that the Focused EIR has been completed in compliance with CEQA, and that the Planning Commission does hereby find that it has independently reviewed and analyzed the Focused EIR and other information in the record and has considered the information contained therein including the written and oral comments received at the public hearings on the Focused EIR and on the Project, prior to acting upon or approving the Project, and has found that the Focused EIR represents the independent judgment and analysis of the City of San Jose as Lead Agency for the Project, and designates the Director of Planning, Building and Code Enforcement at his office at 801 North First Street, Room 400, San Jose, California 95110, as the custodian of documents and records of proceedings on which this decision is based; and

THAT THE PLANNING COMMISSION does hereby find and recognizes that the Focused EIR contains additions, clarifications, modifications and other information in its responses to comments on the Draft Focused EIR and also incorporates information obtained by the City since the Draft Focused EIR was issued. The Planning Commission does hereby find and determine that such changes and additional information are not significant new information as that term is defined under the provisions of the California Environmental Quality Act because such changes and additional information do not indicate that any new significant environmental impacts not already evaluated would result from the Project and they do not reflect any substantial increase in the severity of any environmental impact; no feasible mitigation measures considerably different from those previously analyzed in the Focused EIR have been proposed that would lessen significant environmental impacts of the Project; and no feasible alternatives considerably different from those analyzed in the Focused EIR have been proposed that would lessen significant environmental impacts of the Project. Accordingly, the City Council hereby finds and determines that recirculation of the Focused EIR for further public review and comment is not warranted; and

THAT THE PLANNING COMMISSION does hereby make the following findings with respect to the significant effects on the environment of the Project as it is described in the Focused EIR:

FINDINGS CONCERNING SIGNIFICANT ENVIRONMENTAL EFFECTS

CULTURAL RESOURCES

Impact. The project would result in the demolition of the 507 Almaden Street, a historically significant structure, which is potentially eligible for listing on the California Register.

Mitigation. Implementation of the following mitigation measures would lessen the project's significant impact resulting from the demolition of the 507 Almaden: preparation of a full photo-documentation of the building, prior to demolition, would

occur using the Secretary of the Interior's *Standards and Guidelines for Architectural and Engineering Documentation: HABS/HAER Standards*. The documentation package would be curated with the Northwest Information Center at Sonoma State University, the History of San José Archives, the California Room of the Martin Luther King Jr. Public Library, or other suitable curation facility where the documentation would be available for public research.

Finding. The mitigation measures are adopted, and its implementation will reduce the project's significant adverse impact to 507 Almaden Street, but not to a less than significant level. Therefore, this impact would be **significant unmitigated**. This impact is overridden by the Project benefits set forth in the Statement of Overriding Considerations, below.

STATEMENT OF OVERRIDING CONSIDERATIONS

Significant Unavoidable Impacts

With respect to the foregoing findings and in recognition of those facts that are included in the record, the City has determined that the Project will result in significant unmitigated impacts to, **Cultural Resources** as disclosed in the Final SEIR prepared for this Project. The impacts would not be reduced to a less than significant level by feasible changes or alterations to the Project.

Overriding Considerations

The Planning Commission finds that each of the overriding considerations set forth below constitutes a separate and independent ground for finding that the benefits of the Project outweigh its significant adverse environmental impacts and is an overriding consideration warranting approval of the Project. The Planning Commission specifically adopts and makes this Statement of Overriding Considerations regarding the significant unavoidable impacts of the Project and the anticipated benefits of the Project. The Planning Commission finds that this project has eliminated or substantially lessened all significant impacts on the environment where feasible.

Benefits of the Project

The Planning Commission has considered the Final SEIR, the public record of proceedings on the proposed Project, and other written materials presented to the City as well as oral and written testimony at all public hearings related to the Project, and does hereby determine that implementation of the Project as specifically provided in the Project documents would result in the following substantial public benefits, which outweigh the unavoidable impacts:

The project would further the San Jose 2020 General Plan Downtown Revitalization Major Strategy to encourage development within urbanized areas where urban facilities and services are already available and thus minimize the cost of providing urban services in that the location of the proposed development is an infill site located within the Urban Service Area of the City of San Jose. The demolition of 507 and 511 Almaden Street and construction of a 20 space parking lot will assist in bringing a tenant to the Sobrato Office Tower which will result in increased jobs, increased tax revenue to the City. The project will also reduce blight by getting rid of two vacant, vandalized structures.

The project would further the goals of the Guadalupe –Auzerais Redevelopment Plan in that demolishing the structures will create landscaped parking areas and will eliminate blight by demolishing vacant structures. The proposed parking lot will attract additional private investment and employment into the Redevelopment Plan Area by facilitating occupation of the Sobrato Office Tower by a tenant.

FACTS

The Planning Commission determines that the following are the relevant facts regarding the proposed project:

1. This Conditional Use Permit is for the demolition of two vacant structures located at 507 and 511 Almaden Street and construction of a 20 space parking lot with landscaping and associated site improvements.
2. 507 Almaden Street has been determined to be potentially eligible for the California Register of Historic Resources. 511 Almaden Street has no historic significance.
3. The subject site is designated Core Area on the San Jose 2020 General Plan Land Use/Transportation Diagram.
4. The subject structures are located in an existing parking lot on 0.19 acres in the Downtown Commercial (DC-NT1) Zoning District.
5. Because the project was submitted under the previous zoning for the site Commercial General (CG), the project is reviewed under that zoning designation.
6. Section 20.100 of the San Jose Municipal Code requires a Conditional Use Permit for the demolition of a building and construction of a parking lot.
7. Environmental impacts of the project were analyzed in the Final Focused EIR entitled, “Almaden Street Parking Lot and Landscape Buffer,” certified on May 26, 2004, by the Planning Commission. The project will result in a Significant Unavoidable Environmental Impact to Cultural Resources. A Statement of Overriding Considerations was adopted for the project.

RECOMMENDATION

This Planning Commission concludes and finds, based upon an analysis of the above facts, that:

1. Upon issuance of this Conditional Use Permit, the project will comply with the provisions of the Commercial General (CG) Zoning District in that demolition of structures and construction of a parking lot require the approval of a Conditional Use Permit.
2. The project conforms to the San Jose 2020 General Plan in that it proposes the operation of an off-site parking lot for the Sobrato Office Tower located across the street from the project site.

3. This project is consistent with the Market-Almaden SNI Plan in that single family uses are not envisioned on the site in the plan and parking lots are deemed an appropriate use.
4. The project conforms to the California Environmental Quality Act in that it does not create impacts not previously addressed in the Downtown Strategy Plan Final Focused EIR.
5. The proposed use complies with the parking provisions of Downtown Parking Management Zone, as described in Municipal Code, Section 20.90.500.

FINDINGS

Based upon the above-stated analysis and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area because the proposed demolition and construction of a 20 space parking lot is consistent with the uses of the surrounding area. The proposed landscape buffer is a significant improvement as compared to the existing blighted, vacant single family properties that currently exist on the site and will be removed. The proposed parking lot will increase the safety of the tenants of the Sobrato Office Tower and the surrounding area by creating a “guest” parking area for the office building; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site because the proposed parking lot will not alter or diminish the value of adjacent properties or businesses, raise new safety concerns, or create visual impacts; or
 - c. Be detrimental to public health, safety or general welfare because the potential environmental impacts of the project were addressed by the final focused environmental impact report entitled, “Almaden Avenue Parking Lot and Landscape Buffer” corroborate that such use will not adversely affect the public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the development features necessary to integrate said use with the uses in the surrounding area because the project site already includes the improvements needed for the proposed uses which are compatible with the uses in the surrounding area; and
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate in that the proposed project will not need to provide offsite improvements to the existing roadway network or transit facilities; and
 - b. By other public or private service facilities as are required in that the scale of the project will not necessitate expansion of existing service facilities.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purposes specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of the following conditions. Each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all requirements of the below enumerated precedent conditions all have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. Acceptance and Payment of Recording Fees. Within sixty (60) days from the date of this Resolution, the property owner(s) shall accept this permit by signing the form provided hereto, and paying the fee for its recordation by the Recorder of the County of Santa Clara.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below enumerated conditions throughout the life of the permit:

1. Water Pollution Control Plant Notice. This Conditional Use Permit is subject to the operation of Part 2.75 of the Chapter 15.12 of Title 15 of the San Jose Municipal Code. The applicant for or recipient of such land use approval hereby acknowledges receipt of notice that the issuance of a building permit to implement such land development approval may be suspended, conditioned or denied where the City Manager has determined that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San Jose or to meet the discharge standards of the sanitary sewer system imposed on the California Regional Water Quality Control Board for the San Francisco Bay Region.
2. Noise and Acoustics. Noise emission shall comply with the standards identified in the Zoning Code.
3. Signage. Signage is not a part of this CUP approval. Any new signage at the project site is subject to a Permit Adjustment.
4. Photo-Documentation. Preparation of a full photo-documentation of the building, prior to demolition, would occur using the Secretary of the Interior's *Standards and Guidelines for Architectural and Engineering Documentation: HABS/HAER Standards* is required. The documentation package would be curated with the Northwest Information Center at Sonoma State University, the History of San José Archives, the California Room of the Martin Luther King Jr. Public Library, or other suitable curation facility where the documentation would be available for public research.

5. Conformance with Plans. The project shall be constructed consistent with plans entitled "Conditional Use Permit/Amendment" dated 4/16/03. The proposed landscaping shall be maintained for the life of the parking lot use at the site.

CONDITIONS SUBSEQUENT

1. Revocation, Suspension, Modification. This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission or by the City Council on appeal, at any time, regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100.350, of the San Jose Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use presently conducted creates a nuisance.
2. Revocation. The Permit does not constitute a deed or grant of an easement by the City and is revocable at any time.

APPROVED this 26th day of May, 2004, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

Chairperson

ATTEST:

Stephen M. Haase, Secretary

Deputy

NOTICE TO PARTIES

The time within which judicial review must be sought to review this decision is governed by the provisions of the California Code of Civil Procedure Section 1094.6.